

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Lou Lopez was an unsuccessful candidate for a seat on the Orange County Board of Supervisors in the November 3, 1998 general election. Respondent Lou Lopez for Supervisor (the "Committee") was, at all times relevant to this matter, the controlled committee of Respondent Lou Lopez. Respondent Sheri Schwabe was, at all times relevant to this matter, the treasurer of Respondent Committee.

Under the authority of the Political Reform Act (the "Act"),<sup>1</sup> the Franchise Tax Board (the "FTB") audited the finances of Respondents 1998 county supervisor campaign. During the period January 1, 1998 through December 31, 1998, Respondents received contributions totaling \$180,738, and made expenditures totaling \$186,179.

As Respondent Committee legally qualified as a recipient committee, Respondents were required under the Act to file certain campaign statements and reports disclosing the contribution and expenditure activity of Respondent Committee. Respondents committed seven violations of the Act by failing to keep required campaign records necessary to prepare two campaign statements and by failing to disclose five late contributions.

For the purposes of this Stipulation, Respondents' violations are stated as follows:

- COUNT 1: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to maintain the detailed accounts, records, bills and receipts necessary to prepare a pre-election campaign statement, filed on or about October 5, 1998, for the reporting period July 1, 1998 through September 30, 1998, in violation of section 84104.
- COUNT 2: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to disclose a \$1,000 late contribution in a properly filed late contribution report, by October 19, 1998, in violation of section 84203.
- COUNT 3: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to disclose a \$3,000 late contribution in a properly filed late contribution report, by October 19, 1998, in violation of section 84203.
- COUNT 4: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to disclose a \$1,000 late contribution in a properly filed late contribution report, by October 23, 1998, in violation of section 84203.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 5: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to disclose a \$5,000 late contribution in a properly filed late contribution report, by October 28, 1998, in violation of section 84203.
- COUNT 6: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to disclose a \$1,000 late contribution in a properly filed late contribution report, by October 29, 1998, in violation of section 84203.
- COUNT 7: Respondents Lou Lopez, Lou Lopez for Supervisor and Sheri Schwabe failed to maintain the detailed accounts, records, bills and receipts necessary to prepare a semi-annual campaign statement, filed on or about February 2, 1999, for the reporting period October 18, 1998 through December 31, 1998, in violation of section 84104.

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

### **Duty to File Campaign Statements**

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who directly or indirectly receive contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee. Under section 82016, subdivision (a), a recipient committee that is controlled directly or indirectly by a candidate is a “controlled committee.”

Any person or persons who constitutes a committee, pursuant to section 82013, subdivision (a), is required to file certain campaign reports and statements disclosing the campaign activity of the recipient committee, as required under the Act. Under section 82013, and regulation 18404, subdivision (b), a recipient committee’s filing obligations continue in effect, until such time as that committee is legally terminated. Section 84214 and regulation 18404, subdivision (b) provide that a recipient committee is not legally terminated until the committee’s treasurer files a termination statement on behalf of the committee, declaring that all of the pre-conditions for termination have been met.

Section 84215, subdivision (d) requires all county elected officers, candidates for county office, and their controlled committees to file their campaign statements with the clerk of the county.

As a recipient committee and a candidate, Respondents had a duty to file certain reports disclosing campaign receipts and expenditures made by Respondent Committee, as addressed

below.

### **Duty to Disclose Campaign Contributions and Expenditures**

Section 84200.5, subdivision (b) requires that candidates and recipient committees involved in an election held on the first Tuesday after the first Monday in November of an even-numbered year must file pre-election campaign statements according to a schedule set forth at section 84200.7, subdivision (b). Section 84200.7, subdivision (b)(1) requires candidates and recipient committees to file a first pre-election campaign statement for the reporting period ending September 30, no later than October 5. Section 84200.7, subdivision (b)(2) requires candidates and recipient committees to file a second pre-election statement for the reporting period ended 17 days before the election, no later than 12 days before the election.

Section 84200, subdivision (a) requires candidates and recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement must cover the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement must cover the reporting period July 1 to December 31, and must be filed by January 31 of the following year. In any semi-annual period in which a committee is required to file pre-election campaign statements, the reporting period covered by the semi-annual campaign statement for that period is shortened from six months to the period between the closing date of the last pre-election statement and the end of the semi-annual period.

### **Duty to Maintain Campaign Records**

To ensure accurate campaign reporting, section 84104 imposes a mandatory duty on each candidate, treasurer, and elected officer to maintain detailed accounts, records, bills and receipts that are necessary to prepare campaign statements, and to comply with the campaign reporting provision of the Act. Pursuant to regulation 18401, subdivision (a)(1), this duty includes maintenance of detailed information and original source documentation for a committee's activities, including all bank statements, check registers, canceled checks, bills, receipts, invoices, statements or other documents reflecting obligations incurred by the committee.

Additionally, regulation 18401, subdivision (b)(2) requires the accounts, records, bills, receipts, and original source documentation that must be maintained by a filer to be retained for a period of four years following the date that the campaign statement to which they relate is filed.

### **Duty to Disclose Late Contributions**

Under section 84203, subdivision (b), when a candidate controlled committee makes or receives a late contribution, the candidate and committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a "late contribution" as a contribution, including a loan, aggregating \$1,000 or more, that is received before an election, but after the closing date of the last pre-election statement. Under section 84200.7, subdivision (b), for an election held in November of an even-numbered year, the late contribution period covers the last 16 days before the election.

## SUMMARY OF THE FACTS

Respondent Lou Lopez was an unsuccessful candidate for a seat on the Orange County Board of Supervisors in the November 3, 1998 general election. Respondent Committee was, at all times relevant to this matter, the controlled committee of Respondent Lou Lopez. Respondent Committee was terminated on September 19, 2002. Respondent Sheri Schwabe was, at all times relevant to this matter, the treasurer of Respondent Committee.

### COUNTS 1 and 7

#### **Failure to Maintain Campaign Records**

Respondents had a duty to maintain detailed accounts, records, bills and receipts necessary to prepare campaign statements, and to comply with the campaign reporting provisions of the Act.

During the campaign reporting periods July 1, 1998 through September 30, 1998, and October 18, 1998 through December 31, 1998, Respondents failed to maintain adequate campaign records, including invoices and receipts for expenditures totaling \$16,561.14 and \$60,257.43, respectively, as disclosed by an FTB audit of Respondents' records. By failing to maintain required campaign records for expenditures made during two campaign reporting periods between July 1, 1998 and December 31, 1998, Respondents committed two violations of section 84104.

The total of the expenditures made by Respondent Committee and the invoice amounts for which campaign records were not maintained is set forth below for each of the relevant reporting periods:

Count	Reporting Period	Statement Type	Total Expenditures made by Committee	Total Amount of Expenditure Invoices not Provided
1	7/1/98 – 9/30/98	Pre-Election	\$35,553.00	\$16,561.14
7	10/18/98 – 12/31/98	Semi-Annual	\$69,747.26	\$60,257.43

By failing to maintain required campaign records, as set forth above, Respondents committed two violations of section 84104.

### COUNTS 2-6

#### **Failure to File Late Contribution Reports**

As a candidate, a recipient committee, and treasurer, Respondents had a duty to file late contribution reports, disclosing, within 24 hours, any late contribution that they received prior to the November 3, 1998 general election. The late contribution reporting period for this election was October 18, 1998 through November 2, 1998.

Prior to the November 3, 1998 general election, Respondents received twelve late contributions, five of which Respondents failed to disclose in properly filed late contribution

reports. The five non-disclosed contributions, totaling \$11,000, that Respondents received, and the dates by which they were required to be disclosed in late contribution reports, is set forth below:

Count	Contribution Date	Contributor	Amount	Date Report Due
2	October 18, 1998	CR&R, Inc.	\$1,000	October 19, 1998
3	October 18, 1998	Lou Lopez (loan)	\$3,000	October 19, 1998
4	October 22, 1998	California Quartet	\$1,000	October 23, 1998
5	October 27, 1998	Lou Lopez (loan)	\$5,000	October 28, 1998
6	October 28, 1998	Jack A. Blackburn	\$1,000	October 29, 1998

By failing to file late contribution reports within 24 hours, disclosing the five late contributions received by Respondent Committee, as set forth above, Respondents committed five violations of section 84203, subdivision (a).

### CONCLUSION

This matter consists of seven counts, which carry a maximum possible administrative penalty of Fourteen Thousand Dollars (\$14,000).

Regarding Counts 1 and 7, the typical stipulated administrative penalty for failing to maintain campaign records has historically ranged from \$1,000 to \$2,000 per statement. As these violations appear to be aggravated, due to the large percentage of non-retained campaign records, imposition of an administrative penalty approximating the upper-end of the penalty range is appropriate for each violation.

Regarding Counts 2-6, this case has been excluded from the Enforcement Division's Streamlined Late Contribution Enforcement Program, due to Respondent's additional reporting violations and pattern of non-compliance in late contribution reporting. However, the late contributions not reported are relatively small. Therefore, imposition of a penalty of \$500 for each late contribution reporting violation is appropriate.

The facts of this case therefore justify imposition of the agreed upon penalty of Six Thousand Five Hundred Dollars (\$6,500).